

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Application of)	MM DOCKET NO. 93-155
)	
RICHARD BOTT II)	File No. BAPH-920917GO
(Assignor))	
)	
and)	
)	
WESTERN COMMUNICATIONS, INC.)	
(Assignee))	
)	
For Assignment of Construction)	
Permit of Station KCVI(FM),)	
Blackfoot, Idaho)	

MASS MEDIA BUREAU EXHIBITS

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Permit of Station KCVI(FM),)	
Blackfoot, Idaho)	

MASS MEDIA BUREAU EXHIBITS

1. Integration Statement filed by Richard Bott II (hereinafter "Bott") in MM Docket No. 87-223 on September 11, 1987. -- 3 pages.
2. Transcript of Hearing Session of December 7, 1987 in MM Docket No. 87-223 (Vol. 2, Pp. 7-186) -- 181 pages.
3. Petition to Deny the above-captioned application, filed by Radio Representatives, Inc. (hereinafter "RRI") on October 26, 1992. -- 50 pages.
4. Opposition to Petition to Deny filed by Bott on November 10, 1992. -- 12 pages.
5. Reply to Opposition to Petition to Deny filed by RRI on November 23, 1992. -- 102 pages.
6. Request for Leave to Respond and Response filed by Bott on December 8, 1992. -- 11 pages.
7. Supplement to Petition to Deny filed by RRI on May 14, 1993. -- 10 pages.
8. Letter dated May 19, 1993 from Harry C. Martin, then counsel for Bott, to Roy J. Stewart, Chief of the Mass Media Bureau, advising that Bott would not respond to RRI's May 14, 1993 supplement. -- 1 page.
9. Letter dated July 30, 1993 from James P. Riley, counsel for Bott, to Y. Paulette Laden, counsel for the Mass Media Bureau, regarding Bott's response to the Bureau's document request. -- 7 pages.

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Federal Communications Commission	
Docket No. <u>93-155</u>	Exhibit No. <u>ONE</u>
Presented by <u>MASS MEDIA BUREAU</u>	
Disposition	Identified <u>✓</u>
	Received <u>✓</u>
	Rejected <u> </u>
Reporter <u>M.K. FLEISHMAN</u>	
Date <u>10/26/93</u>	

MASS MEDIA
BUREAU EX 1

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BEFORE THE

Federal Communications Commission

Federal Communications Commission
Office of the Secretary

WASHINGTON, D. C. 20554

In re Applications of)	MM Docket No. 87-223 ✓
RICHARD P. BOTT, II)	File No. BPH-850711MM
RADIO REPRESENTATIVES, INC.)	File No. BPH-850711MO
CLARE MARIE FERGUSON)	File No. BPH-850712MS
For a Construction Permit)	
For a New FM Station)	
Blackfoot, Idaho)	

To: Administrative Law Judge Edward Luton

INTEGRATION STATEMENT

Richard P. Bott, II, by his attorneys and pursuant to the Administrative Law Judge's Order, FCC 87M-2081 (released September 4, 1987), hereby files his integration statement in this proceeding.

Richard P. Bott, II, an individual applicant, proposes to work full-time, 40 or more hours per week, as General Manager of his proposed station at Blackfoot, Idaho. In this capacity, he will supervise all personnel and otherwise will be responsible for all day-to-day operations of the station in the areas of programming, promotion, technical operation and business affairs. Mr. Bott plans to seek enhancement credit for his broadcast experience and his plan to establish his full-time residence in Blackfoot.

1

2.

Further, Mr. Bott's application for Blackfoot, as amended, correctly reflects the other broadcast interests which now are attributable to him.

Respectfully submitted,

RICHARD P. BOTT, II

By



HARRY C. MARTIN

His Attorney

Reddy, Begley & Martin
2033 M Street, N.W.
Washington, D.C. 20036

September 11, 1987

CERTIFICATE OF SERVICE

I, Dianne Penso, certify that on this 11th day of September, 1987, copies of the foregoing **INTEGRATION STATEMENT** were delivered or mailed, postage prepaid, to the following:

Administrative Law Judge Edward Luton*
Federal Communications Commission
2000 L Street, N.W., Room 225
Washington, D.C. 20554

Paulette Laden, Esquire*
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W., Room 7212
Washington, D.C. 20554

J. Dominic Monahan, Esquire
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Counsel for CLARE MARIE FERGUSON

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Counsel for RADIO REPRESENTATIVES, INC.


Dianne Penso

*HAND DELIVERED

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Federal Communications Commission	
Docket No.	<u>93-165</u> Exhibit No. <u>TWO</u>
Presented by <u>MASS MEDIA BUREAU</u>	
Disposition	Identified <input checked="" type="checkbox"/>
	Received <u>PAGE 1-92, 181 LINE 19 TO END.</u>
	Rejected <u>PAGE 92-181, UP TO LINE 18</u>
Reporter	<u>M.K. FLEISHMAN</u>
Date	<u>10/26/93</u>

Transcript

Findings

in the Matter of:

Docket No.: 87-223

BLACKFOOT, IDAHO

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DATE: December 7, 1987

VOLUME: 2

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PAGES: 7 - 186



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FEDERAL COMMUNICATIONS COMMISSION

HEARING

-----X
In re applications of: :

Richard P. Bott, II :
file no. BPH-850711MM :

MM Docket No.
87-223

Radio Representatives, Inc. :
file no. BPH-850711MO :

Clare Marie Ferguson :
file no. BPH-850712MS :
-----X

Federal Communications Commission
Courtroom #3
2000 L Street, N.W.
Washington, D.C. 20036

Monday
December 7, 1987

The hearing came on, pursuant to notice, at
10:00 a.m.

BEFORE: HONORABLE EDWARD LUTON
Administrative Judge

APPEARANCES:

For the Richard P. Bott, II:

BARRY A. FRIEDMAN, Esquire
Suite 300
1200 New Hampshire Avenue, N.W.
Washington, D.C. 20036
(202) 861-7816

For Radio Representatives, Inc.:

DAN J. ALPERT, Esquire
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 861-1622

For Clare Marie Ferguson:

J. DOMINIC MONAHAN, Esquire
1255 23rd Street, N.W.
Suite 300
Washington, D.C. 20036

For the Mass Media Bureau:

Y. PAULETTE LADEN, Esquire
Mass Media Bureau
FCC

I N D E X

WITNESSES: DIRECT VOIRE DIRE CROSS REDIRECT RECROSS

			22	97	
Richard P. Bott	17				
Sherwood Patterson	98		99		
Clare M. Ferguson	120	133	137	180	185

EXHIBITS: IDENTIFIED RECEIVED

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P-R-O-C-E-E-D-I-N-G-S

10:00 a.m.

JUDGE LUTON: There are two orders which will be released today. One of them is a request for protective order filed by Ferguson on December 1 and that had to do with the question of whether Mr. Katz needed to be brought in here for examination and the answer is no.

There's a petition for leave to amend filed by Bott November 4th. That's the one where Bott seeks to change his transmitter site once again. That petition was amended and the amendment was accepted.

Let's take the direct cases in the order in which they appear, the designation order. We'll start with Bott, then Radio Representatives and then Ferguson.

MR. FRIEDMAN: Your Honor, for the courtesy of the Commission staff, may we go first with the engineering exhibits?

JUDGE LUTON: Yes, we can do that.

MR. FRIEDMAN: Thank you, Your Honor.

Your Honor, I'm tendering to the court reporter at this time two copies of an exhibit which is titled Joint Engineering Exhibit of Richard E. Bott, II and Clare Marie Ferguson, Areas and Populations Within Proposed Service Contours and Other Services, FM Channel

1 2680 Blackfoot, Idaho. This is a five page document
2 that bears the certification of Richard L. Biby, spelled
3 B-I-B-Y. I understand and have been advised that all
4 parties are joining in this exhibit subject to a
5 stipulated change in the exhibit at the request of the
6 Bureau. I assume Bureau counsel would like to move that
7 stipulation.

8 MR. ALPERT: Just one second, Your Honor. We
9 exchanged an exhibit and yes, we are withdrawing our
10 engineering exhibits so we are joining this exhibit on
11 behalf of Radio Representatives, Inc. for the
12 convenience of all parties to move this hearing along.

13 JUDGE LUTON: What's the stipulation again?

14 MR. FRIEDMAN: I think Ms. Laden, who has the
15 information, wants to make a stipulation.

16 MS. LADEN: Yes, Your Honor, we have no
17 objection to using this as a joint exhibit. There are
18 two stipulations. One of them is an error in the
19 statement that I think everyone, including Mr. Biby who
20 I spoke to, acknowledge this as an error. That would be
21 at page 4 in the latter part of that page where it
22 begins Summary statement. The second paragraph under
23 Summary Statement or the second paragraph from the
24 bottom begins "During nighttime hours the Radio
25 Representatives, Inc. proposal would provide a new third

1 oral service to approximately 5,000 persons. The
2 Ferguson and Bott proposals would provide new third or
3 fourth service to approximately 7,000 persons."

4 It should read, the last phrase, Ferguson and
5 Bott proposals would provide new fourth or fifth service
6 to approximately 7,000 persons instead of third and
7 fourth.

8 I think, Your Honor, I was going to propose a
9 stipulation as to that error because I think we all
10 agree that the statement is incorrect the other way.

11 JUDGE LUTON: Radio Representatives supports
12 that stipulation?

13 MR. FRIEDMAN: Biby joins in the stipulation.

14 MR. MONAHAN: Clare Marie Ferguson joins in
15 the stipulation, Your Honor.

16 JUDGE LUTON: All right. Is that the extent
17 of the stipulation? That's all of it? Nothing else?

18 MS. LADEN: There was a second one, Your
19 Honor. That is that since Your Honor has accepted the
20 amendment for Bott today and had earlier accepted an
21 amendment by Ferguson, the exhibit does not make clear
22 but I think we can all stipulate that the new sites, the
23 present sites for Ferguson and Bott are the same site as
24 the site which is shown on this exhibit to be the site
25 for Radio Rep. Again I think we can all agree to that.

1 JUDGE LUTON: All right. I'll call this Joint
2 Exhibit 1 shared by each of the three parties.

3 (Whereupon, the document was marked
4 as Joint Exhibit Number for
5 identification.)

6 JUDGE LUTON: Any other preliminary matters?

7 MR. FRIEDMAN: Yes, Your Honor, I have a
8 second engineering exhibit to tender.

9 I guess at this time I should move into
10 evidence Joint Exhibit 1.

11 JUDGE LUTON: All right. It's received.

12 (Whereupon, the document marked as
13 Joint Exhibit Number 1 was received
14 in evidence.)

15 MR. FRIEDMAN: For identification I'd like to
16 mark as Bott Exhibit E-1 a document entitled Engineering
17 Report for MM Docket Number 87-223 prepared by E. Harold
18 Munn, Jr. and Associates, Inc. and I'm tendering an
19 original and one copy to the court reporter.

20 (Whereupon, the document was marked
21 as Bott Exhibit Number E-1 for
22 identification.)

23 MR. FRIEDMAN: Your Honor, this is a document
24 consisting of a two page statement labeled Discussion
25 and one page Certification and exhibits marked Exhibits

1 E-1 through E-4 to the discussion.

2 At this time I would like to move Bott Exhibit
3 E-1 into evidence.

4 JUDGE LUTON: Any objection?

5 MS. LADEN: Your Honor, just a second. I
6 think I know what this exhibit is but I want to -- have
7 we seen that exhibit?

8 MR. FRIEDMAN: It was tendered to the Bureau
9 on the engineering exchange date.

10 MS. LADEN: Yes, Your Honor, I remember seeing
11 it now. We have no objection.

12 JUDGE LUTON: It's marked E-1. Is that the
13 way you wanted it?

14 MR. FRIEDMAN: Yes, Your Honor and I'd like to
15 move its admission now.

16 JUDGE LUTON: It's received.

17 (Whereupon, the document marked as
18 Bott Exhibit Number E-1 was
19 received in evidence.)

20 MR. FRIEDMAN: Your Honor, at this time I call
21 to the witness stand Mr. Richard P. Bott, II.

22 MS. LADEN: Your Honor, since the Bureau's
23 participation is limited to the engineering matter, may
24 we be excused?

25 MR. MONAHAN: Your Honor, perhaps before Ms.

1 Lader is excused I'd like to bring up one other matter
2 which if Your Honor so chooses to act on it might move
3 the proceeding along. Clare Marie Ferguson has pending
4 now a motion for summary decision with regard to the FAA
5 issue originally designated against Miss Ferguson when
6 this case was set for hearing and a later issue which
7 was added regarding site availability. After Your Honor
8 granted our motion for leave to amend and accepted that
9 motion, we moved on the same day to move out the FAA
10 issue and the site availability issue because it seems
11 to us that inherent in the acceptance of that amendment
12 is the recognition that we no longer have an FAA issue
13 nor do we have a site availability issue. We filed on
14 the 20th. I believe the response date to that is
15 probably Friday.

16 MR. ALPERT: Just one comment about that, Your
17 Honor. For some reason I just received it on Friday and
18 according to the envelope that it was mailed in it was
19 mailed on December 2nd from Mr. Monahan's office.
20 However, I've read through it and I have no objection
21 whatsoever.

22 JUDGE LUTON: I can't remember whether this is
23 something that I ruled on in writing or not. If I
24 haven't, I will. It's two things. Motion for summary
25 decision --

1 MR. MONAHAN: Yes, Your Honor.

2 JUDGE LUTON: Air hazard issue and site
3 availability issue.

4 MR. MONAHAN: Yes, Your Honor.

5 JUDGE LUTON: All right. Both of which we
6 ought to recite which Ferguson -- proposals.

7 MR. MONAHAN: Correct.

8 JUDGE LUTON: A summary decision either has
9 been or will be granted on both those issues. You may
10 be excused now.

11 MR. FRIEDMAN: Just for the record I'd like to
12 indicate that my applicant, Mr. Bott, has the same site
13 as Mr. Monahan. Since we only had our amendment granted
14 the other day we haven't moved for summary decision but
15 I'd like to make the oral motion at this time for
16 summary decision on the FAA issue.

17 JUDGE LUTON: All right. I'll grant that
18 also.

19 MR. MONAHAN: Thank you, Your Honor.

20 MR. FRIEDMAN: At this point I'd like to call
21 Mr. Bott to the stand. Your Honor, just a question of
22 your procedure. Would you prefer that I move each
23 exhibit into evidence or wait until all of them are
24 presented? What's your choice on that?

25 JUDGE LUTON: I really don't care how you do

1 it.

2 MR. FRIEDMAN: I'll move each one separately
3 then, Your Honor.

4 JUDGE LUTON: Mr. Bott, would you raise your
5 right hand please.
6 Whereupon,

7 RICHARD P. BOTT, II
8 was called as a witness by Counsel for Richard P. Bott,
9 II and having been first duly sworn, assumed the witness
10 stand and was examined and testified as follows:

11 MR. FRIEDMAN: Your Honor, at this time I'd
12 like this marked for identification as Bott Exhibit
13 Number 1. I'm tendering an original and a copy to the
14 court reporter. This is a one page exhibit, the one
15 with the one page certification. It bears the statement
16 The Applicant.

17 (Whereupon, the document was marked
18 as Bott Exhibit Number 1 for
19 identification.)

20 DIRECT EXAMINATION

21 BY MR. FRIEDMAN:

22 Q Mr. Bott, is this your Hearing Exhibit Number
23 1?

24 A Yes.

25 MR. FRIEDMAN: Your Honor, at this point I'd

1 like to move into evidence the Bott Hearing Exhibit
2 Number 1.

3 MR. ALPERT: No objection.

4 MR. MONAHAN: No objection, Your Honor.

5 MR. FRIEDMAN: Thank you.

6 JUDGE LUTON: Bott 1 is received.

7 (Whereupon, the document marked as
8 Bott Exhibit Number 1 was received
9 in evidence.)

10 MR. FRIEDMAN: Your Honor, at this time I'm
11 tendering to the court reporter a document that has been
12 marked for identification. I ask it be marked as Bott
13 Exhibit Number 2 which is a document titled Other
14 Immediate Ownership Interests. It is a two page
15 document along with a one page exhibit.

16 (Whereupon, the document was marked
17 as Bott Exhibit Number 2 for
18 identification.)

19 BY MR. FRIEDMAN:

20 Q Mr. Bott, I ask you at this time is this your
21 hearing exhibit prepared for this case?

22 A Yes, it is.

23 MR. FRIEDMAN: Thank you. Your Honor, at this
24 point I'd like to move Bott Hearing Exhibit Number 2
25 into evidence.

1 MR. ALPERT: No objection.

2 MR. MONAHAN: No objection, Your Honor.

3 MR. FRIEDMAN: Thank you.

4 JUDGE LUTON: It's received.

5 (Whereupon, the document marked as
6 Bott Exhibit Number 2 was received
7 in evidence.)

8 MR. FRIEDMAN: Your Honor, at this time I am
9 tendering to the court reporter an original and a copy
10 of what I request be marked as Bott Exhibit Number 3
11 which is a one page document bearing the title
12 Integration Proposal together with a one page
13 declaration.

14 (Whereupon, the document was marked
15 as Bott Exhibit Number 3 for
16 identification.)

17 BY MR. FRIEDMAN:

18 Q Mr. Bott, do you have any changes to this
19 exhibit?

20 A Yes, there is a change I'd like to make.

21 Q Would you please tell me what that change is?

22 A In the last sentence there should be a comma
23 between the words programming and promotion.

24 Q Mr. Bott, with that one change is this your
25 Hearing Exhibit Number 3?

1 A Yes.

2 MR. FRIEDMAN: Your Honor, at this point I
3 would like to move into evidence Bott Hearing Exhibit
4 Number 3 as changed.

5 MR. ALPERT: No objections.

6 JUDGE LUTON: 3 is received.

7 (Whereupon, the document marked as
8 Bott Exhibit Number 3 was received
9 in evidence.)

10 MR. FRIEDMAN: Your Honor, at this time I'm
11 tendering to the court reporter an original and one copy
12 of what I request be marked as Bott Exhibit Number 4
13 which is a three page statement under the title
14 Biographical Statement of Richard P. Bott, II together
15 with a one page declaration.

16 (Whereupon, the document was marked
17 as Bott Exhibit Number 4 for
18 identification.)

19 BY MR. FRIEDMAN:

20 Q Mr. Bott, do you have any changes to this
21 document?

22 A Yes. On page 2 of Exhibit #4 there's a
23 typographical error that needs to be corrected.

24 Q Would you tell me what that correction is?

25 A On the second line down from the top it says

1 "campus Station WBJU(FM)".

2 Q Yes.

3 A It should be (AM).

4 Q Mr. Bott, will you tell me what kind of radio
5 station is WBJU(AM)?

6 A That's a campus station. It's a carrier
7 current facility that serves the college campus.

8 Q Mr. Bott, is that your Hearing Exhibit Number
9 4 as amended?

10 A Yes.

11 MR. FRIEDMAN: Your Honor, at this point I
12 would like to move for admission Bott Hearing Exhibit
13 Number 4 as amended.

14 MR. ALPERT: Your Honor, I have one objection.
15 On page 3 at the very top Mr. Bott goes into some
16 testimony concerning that he is "Involved in the
17 Independence, Missouri Chamber of Commerce as well as
18 church groups and other community and civic
19 organizations." I think it's well established that
20 civic activities that occur outside the service area of
21 the proposed station have no relevance whatsoever.

22 MR. FRIEDMAN: Your Honor, I think it's a
23 question of weight. I'm certainly prepared to agree
24 with Mr. Alpert there is no weight to be provided. As
25 to relevance, it is relevance for his statement as to

1 his biographical experience and you will give it the
2 proper weight.

3 JUDGE LUTON: Which is zero.

4 MR. FRIEDMAN: Which is zero.

5 JUDGE LUTON: The objection is overruled.

6 MR. FRIEDMAN: Your Honor, at this point I
7 continue to move the introduction of Bott Exhibit 4.

8 JUDGE LUTON: 4 is received.

9 (Whereupon, the document marked as
10 Bott Exhibit Number 4 was received
11 in evidence.)

12 MR. FRIEDMAN: Thank you, Your Honor. We had
13 an Exhibit Bott Number 5 but by virtue of the fact of
14 the summary decision you granted in our favor we are at
15 this point going to withdraw that exhibit since there's
16 no reason to press the issue.

17 Your Honor, at this point in light of the
18 admission of our exhibits, I tender Mr. Bott for cross
19 examination.

20 JUDGE LUTON: Radio Representatives.

21 CROSS EXAMINATION

22 BY MR. ALPERT:

23 Q Good morning, Mr. Bott. Dan Alpert for Radio
24 Representatives. How are you today?

25 A Good morning, Dan. Fine, thank you.

1 Q How did you first get involved in the
2 application for Blackfoot, Idaho? How did you first
3 become aware of the frequency?

4 A Well, we went over this at the deposition
5 session. Through my work and my involvement in work I
6 became familiar with lists that were coming out about
7 the Universal Window and different frequencies that were
8 available for a person to file for and that's how I
9 first of all became aware of the Blackfoot, Idaho
10 allocation.

11 Q Did you apply for any other frequencies at
12 that time?

13 A Yes, I did. Also one in Central Valley,
14 California.

15 Q And that was one which was designated for
16 hearing approximately when?

17 A I believe it was May of '87.

18 Q What was the outcome of that proceeding?

19 A That was granted to me by way of a settlement.

20 Q This case was designated for hearing just
21 shortly after the Central Valley application was also
22 designated for hearing. Is that correct?

23 A Yes. This Blackfoot case I believe was
24 designated in July of '87.

25 Q At the time you applied for the Central Valley